

Notice of Allowability

Application No.

10/780,285

Examiner

Kent L. Bell

Applicant(s)

BESSHO ET AL.

Art Unit

1661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to application filed 2/17/04
2. ☒ The allowed claim(s) is/are THE CLAIM
3. ☒ The drawings filed on 2/17/04 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

K. L. Bell

Detailed Action

Examiner's Amendment

An Examiner's Amendment to the record appears below. Should the changes and/or additions be unacceptable to Applicant, an amendment may be filed as provided by 37 CFR 1.312.

To ensure consideration of such an amendment, it **Must** be submitted no later than the payment of the Issue Fee.

Examiner's Amendment Authorized

Authorization for this Examiner's Amendment was given in a telephone interview with Attorney Kenyon Schuett on September 8, 2004.

Amendment to the Specification:

The Specification has been amended as follows:

A. Page 1, after line 2, before line 3, The following has been inserted:

--Genus/Species

Calibrachoa species

Varietal Denomination

'Kakegawa S70'--.

Detailed Action

B. Page 1, line 7, "Million Bells Yellow' (US PP11,558)" has been deleted and --Sunbelki' (U.S. Plant Patent No. 11,558)-- has been inserted in its place.

C. Page 1, line 18, --. 'Kakegawa S70' was asexually reproduced by stem cuttings in Salinas, California-- has been inserted after "S70' ".

D. Page 1, line 24, "a single inflorescence" has been deleted and --flowers (known as SK1 – 97 during testing)-- has been inserted in its place.

E. Page 1, line 25, "inflorescences" has been deleted and --flowers-- has been inserted in its place.

F. Page 2, after line 27, before line 28, The following has been inserted:

--In U.S. Plant Patent No. 11,558, the Genus for 'Sunbelki' was identified as Petunia. Since that time, as discussed above, the inventors have learned that the Genus Petunia has been split by the I. N. G., and this particular variety, because of its chromosome number and bud aestivation is more accurately characterized as a member of the Calibrachoa Genus.--.

Detailed Action

G. Page 3, line 1, Both occurrences of "Dip 'N Grow" have been deleted and --DIP 'N GROW-- has been inserted in their places.

H. Page 3, line 20, "spp." has been deleted and --sp.-- has been inserted in its place.

I. Page 3, line 21, "Petunia" has been deleted and --Calibrachoa-- has been inserted in its place.

J. Page 4, after line 16, before line 17, --Stem length - - 2.0 cm – 2.5 cm.-- has been inserted.

K. Page 5, after line 11, before line 12, The following has been inserted:

--Sepal shape - - Lanceolate.

Sepal apex - - Mucronate.

Sepal margin - - Entire.--.

L. Page 5, after line 13, before line 14, The following has been inserted:

-- Flower depth - - 2.2 cm – 2.4 cm.

Floral tube length - - 1.6 cm – 1.8 cm.

Detailed Action

Floral tube diameter - - 0.5 cm.--.

M. Page 5, after line 15, before line 16, The following has been inserted:

--Bud length - - 1.0 cm – 1.2 cm.

Bud diameter - - 0.2 cm – 0.3 cm.--.

N. Page 5, after line 16, before line 17, --Peduncle color - - RHS 144B (yellow-green)--
has been inserted.

O. Page 5, line 18, “Placenta arrangement - - Central.” has been deleted and --Pistil
number - - 1.-- has been inserted in its place.

P. Page 5, after line 24, before line 25, The following has been inserted:

--Petal shape - - Spatulate.

Petal apex - - Truncate.

Petal margin - - Entire.--.

Q. Page 6, line 8, “US PP13,044 P2” has been deleted and --U.S. Plant Patent number
13,044-- has been inserted in its place.

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Page 5

Detailed Action

R. Page 6, Table 2, lines 1 and 2, "**Million Bells Yellow**" has been deleted and
--**Sunbelki**-- has been inserted in its place.

Future Correspondence

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Kent L. Bell whose telephone number is (571) 272-0973. The Examiner can normally be reached Monday through Thursday from 6:00 am to 4:30 pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Andrew Wang, can be reached at (571) 272-0811.

The fax phone number for the group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-1600.

K. L. Bell

**KENT BELL
PRIMARY EXAMINER**

Kent L. Bell